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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 13th October, 1958:-

Issue No.	No. and date	Issued by	Subject
209	S.O. 2135, dated 10th October, 1958.	Ministry of Information and Broadcasting	Certification of films specified therein.
210	S.O. 2136, dated 6th October, 1958.	Election Commission, India.	Order of the High Court of Judicature at Allahabad on Writ Petition No. 1044 of 1958.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory Orders and Notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

MINISTRY OF LAW

New Delhi-2, the 15th October, 1958

S.O. 2184.—In exercise of the powers conferred by clause (5) of article 324 of the Constitution, the President is pleased to make the following rules for regulating the conditions of service of Shri K. V. K. Sundaram, I.C.S., officiating Chief Election Commissioner—

1. The said officiating Chief Election Commissioner shall hold office during the absence of leave of Shri S. Sen.
2. The said officiating Chief Election Commissioner shall be paid salary of four thousand rupees per month.
3. The conditions of service of the said officiating Chief Election Commissioner as respects leave of absence, leave salary, travelling allowance and all other matters shall be regulated by the same rules as are applicable to a Secretary to the Government of India who is a member of the Indian Civil Service.

[No. F. 4(18)/58-Elections.]

K. Y. BHANDARKAR, Secy.

MINISTRY OF FINANCE
(Department of Economic Affairs)

New Delhi, the 15th October 1958

S. O. 2185—Statement of the Affairs of the Reserve Bank of India, as on the 10th October 1958

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	10,08,48,000
Reserve Fund	80,00,00,000	Rupee Coin	1,64,000
National Agricultural Credit (Long-term Operations) Fund	25,00,00,000	Subsidiary Coin	3,36,000
		Bills Purchased and Discounted :—	
National Agricultural Credit (Stabilisation) Fund	3,00,00,000	(a) Internal	..
Deposits :—		(b) External	..
(a) Government—		(c) Government Treasury Bills	6,61,50,000
(i) Central Government	52,78,47,000	Balances held abroad*	12,59,65,000
(ii) Other Governments	18,84,12,000	**Loans and Advances to Governments	20,08,71,000
(b) Banks	87,88,94,000	Other Loans and Advances†	52,10,23,000
(c) Others	113,69,35,000	Investments	303,38,41,000
Bills Payable	14,05,84,000	Other Assets	9,54,47,000
Other Liabilities	14,19,73,000		
TOTAL	414,46,45,000	TOTAL	414,46,45,000

Dated the 15th day of October, 1958.

*Includes Cash & Short term Securities.

†The item 'Other Loans and Advances' includes Rs. 1,10,50,000/- advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

**Includes Temporary Overdrafts to State Governments. H. V. R. IENGAR, GOVERNOR

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 10th day of October 1958.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	10,08,48,000		A. Gold Coin and Bullion—		
Notes in circulation	<u>1545,16,03,000</u>		(a) Held in India	117,76,03,000	
Total Notes Issued	<u>1555,24,51,000</u>		(b) Held outside India	..	
			Foreign Securities	169,67,56,000	
			TOTAL OF A	287,43,59,000	
			B. Rupee Coin	138,43,71,000	
			Government of India Rupee Securities	1129,37,21,000	
			Internal Bills of Exchange and other commercial paper	..	
TOTAL—LIABILITIES	<u>1555,24,51,000</u>		TOTAL—ASSETS	1555,24,51,000	

Dated the 15th day of October, 1958.

H. V. R. IENGAR, Governor

[No. F-3(2)-F. 1/58.]

A. BAKSI, Jt. Secy.

(Department of Economic Affairs)

New Delhi, the 15th October 1958

S.O. 2186.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949) the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 11 of the said Act shall not be applicable to the undernoted banking companies till the expiry of the 31st day of October 1959, in so far as the said section would, by reason only of the territorial changes and formation of new States under the provisions of the States Reorganisation Act, 1956 (37 of 1956), require them to have paid-up capital and reserves of an aggregate value which is higher than the aggregate value of paid-up capital and reserves which they were required to have under the said section on the 31st October 1956.

- (1) Ganesh Bank of Kurundwad Ltd, Kurundwad.
- (2) Union Bank of Bijapur and Sholapur Ltd., Bijapur.

[No. F. 4(111)-BC/58.]

D. N. GHOSH, Under Secy.

(Department of Revenue)

INCOME-TAX

New Delhi, the 9th October 1958

S.O. 2187.—In exercise of the powers conferred by sub-section (2) of Section 5 of the Indian Income-tax Act, 1922, (11 of 1922), the Central Government is pleased to appoint Shri S. K. Ganguli to be a Commissioner of Income-tax.

This notification shall be deemed to have taken effect from the afternoon of 25th September, 1958.

[No. 93.]

A. K. MUKHERJEE, Under Secy.

(Department of Revenue)

INCOME-TAX ESTABLISHMENTS

New Delhi, the 15th October 1958

S.O. 2188.—Shri A. Y. Mehta, Income-tax Officer, Bombay relinquished charge of the post of Secretary, Board of Referees, Bombay with effect from 1st August, 1958.

[No. I. T. 260.]

P. S. KAICKER, Under Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 9th October 1958

S.O. 2189.—In exercise of the powers conferred by sub-section (2) of section 5 of the Indian Income-tax Act, 1922 (11 of 1922) and in partial modification of all previous notifications on the subject the Central Board of Revenue hereby directs that with effect from 30th September, 1958 (afternoon) Shri K. D. Dholkia a Commissioner of Income-tax, shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the following Income-tax Circles, Wards and Districts namely:—

1. All Income-tax Wards and Circles at Poona.
2. All Income-tax Wards in South Satara District.
3. All Income-tax Wards in North Satara District.
4. All Income-tax Wards and Circles in Kolhapur District.

5. All Income-tax Wards and Circles in Thana District.
6. All Income-tax Wards in Kolaba District.
7. Ratnagiri District.
8. All Income-tax Wards and Circles in Sholapur District.
9. All Income-tax Wards in Ahmednagar District.
10. All Income-tax and Circles in Akola District.
11. Yeotmal District.
12. All Income-tax Wards in Amravati District.
13. All Income-tax Wards in Wardha for Wardha and Chanda Districts.
14. All Income-tax Wards in Aurangabad for Aurangabad and Bhir Districts.
15. Khamgaon for Buldhana District.
16. All Income-tax Wards in Nanded for Nanded and Parbhani Districts.
17. Latur for Osmanabad District.

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him:

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any Income-tax Authority outside his jurisdictional area.

While performing the said functions the said Shri Dholkia shall be designated as the Commissioner of Income-tax Bombay South with headquarters at Poona.

[No. 92 (F. No. 55/23/58-IT).]

Explanatory Note

NOTE.—The amendments have become necessary due to a change in the incumbent of Commissioner's post.

(The above note does not form a part of the notification but is intended to be a merely clarificatory).

S.O. 2190.—In exercise of the powers conferred by sub-section (2) of section 5 of the Indian Income-tax Act, 1922 (11 of 1922) and in partial modification of all previous notifications on the subject the Central Board of Revenue hereby directs that with effect from 25th September 1958 (afternoon) Shri S. K. Ganguli, who has been appointed by the Central Government to be a Commissioner of Income-tax, shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the States of Punjab, Jammu and Kashmir and the Union Territory of Himachal Pradesh:

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him:

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any Income-tax Authority outside his jurisdictional area.

While performing the said functions the said Shri Ganguli shall be designated as the Commissioner of Income-tax, Punjab, Jammu and Kashmir and Himachal Pradesh with headquarters at Simla.

[No. 94 (F. No. 55/32/58-I.T.).]

A. K. MUKHERJEE, Under Secy.

Explanatory Note

NOTE.—The amendments have become necessary on account of the change in the incumbent of the Commissioner's charge.

(This note does not form a part of the notification but is intended to be merely clarificatory).

MINISTRY OF COMMERCE & INDUSTRY

New Delhi, the 16th October, 1958

RUBBER CONTROL

S.O. 2191.—Sri N. Krishna Pillai, Secretary, Rubber Board, Kottayam, is granted 3 month's privilege leave with effect from the date he avails of the leave. On the expiry of the leave, his services are replaced at the disposal of the Government of Kerala.

In pursuance of sub-section (2) of Section 6A of the Rubber Act, 1947 (24 of 1947), Sri T. V. Joseph, Statistical and Accounts Officer of the Rubber Board, is hereby appointed as Secretary, Rubber Board, Kottayam, in addition to his duties until further orders. Sri N. Krishna Pillai will hand over charge to Sri T. V. Joseph.

[No. 21(13)Plant(B)/58.]

M. S. SADASIVAN, Under Secy.

ORDER

New Delhi, the 16th October 1958

S.O. 2192.—In exercise of the powers conferred by sub-section (1) of section 25 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby directs that the powers exercisable by it under section 18G of the said Act, shall, in relation to the control of supply, distribution and price of cement in the Union Territory of Himachal Pradesh, be exercisable also by the Lieutenant-Governor of Himachal Pradesh subject to the conditions that:—

- (1) any order proposed to be issued by the Lieutenant Governor Himachal Pradesh shall receive prior concurrence of the Central Government, and
- (2) no order made by the Lieutenant-Governor of Himachal Pradesh in exercise of the powers so delegated shall have effect in so far as such order is repugnant to any order made by the Central Government under the said section 18G.

[No. Cem-15(15)/58.]

B. B. NAG, Under Secy.

CORRIGENDUM

New Delhi, the 15th October 1958

S.O. 2193.—In the late Ministry of Heavy Industries Order S.R.O. 409, dated the 1st February, 1957, published in the Gazette of India Extraordinary, Part II—Section 3, dated the 1st February, 1957:—

For "Shri B. V. Baliga, Chief Engincer, All India Radio, New Delhi."

Read "Shri B. V. Baliga, Managing Director, The Bharat Electronics (Private) Ltd., Jalahalli P. O., Bangalore."—

[No. 5(25)IA(II)(G)/57.]

A. K. CHAKRAVARTI, Under Secy.

(Indian Standards Institution)

New Delhi, the 14th October 1958

S. O. 2194.—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that two licences, particulars of which are given in the Schedule hereto annexed, have been granted authorizing the licensees to use the Standard Mark.

THE SCHEDULE

Sl. No.	Licence No. and Date	Period of Validity		Name and Address of the Licensee	Article/Process covered by the licence	Relevant Indian Standard
		From	To			
1.	CM/L-103 7-10-1958	1-11-1958	31-10-1959	The Standard Batteries Ltd., Vakola, Santa Cruz. Bombay-25.	Lead Acid Storage Batteries for Motor Vehicles, Light Duty	IS : 395-1952 Specification for Lead Acid Storage Batteries for Motor Vehicles, Light Duty.
2.	CM/L-104 7-10-1958	Do	Do.	The East India Distilleries and Sugar Factories Ltd., Nellikuppam, South Arcot Dist. Madras.	Rectified Spirit—Grade A	IS : 323-1952 Specification for Rectified Spirit.

[No. MDC/12(19).]

C. N. MODAWAL,
Deputy Director (Marks).

MINISTRY OF STEEL MINES AND FUEL

(Department of Iron and Steel)

New Delhi, the 16th October 1958

S.O. 2195.—ESS. COMM-IRON AND STEEL-2(c)/AM(28).—In exercise of the powers conferred by sub-clause (c) of clause 2 of the Iron and Steel (Control) Order, 1956, the Central Government hereby directs that the following further amendment shall be made to the notification of the Government of India, in the Ministry of Steel, Mines and Fuel, No. S.R.O. 2041/ESS/COMM/Iron and Steel-2(c), dated the 11th June, 1957, as amended from time to time, namely:—

In the Schedule annexed to the said notification, in column 2 thereof, against 'MADRAS', for the existing entry No. (1), the following shall be substituted, namely:—

"1. The Director of Industries and Commerce, Madras."

[No. SC(A)-4(534).]

G. RAMANATHAN, Deputy Secy.

COLLECTORATE OF CENTRAL EXCISE, CALCUTTA

CENTRAL EXCISE

Calcutta, the 8th October 1958

SUBJECT:—Tobacco—Noting of correct description of tobacco in Central Excise documents.

S.O. 2196.—In pursuance of Rule 233 of the Central Excise Rules, 1944, it is hereby directed that besides indicating the description of the tobacco, *viz.*, 'Biri', 'Hookah', 'Chewing', etc., the licensee should, in addition to the tariff description, note the local name of the tobacco, *viz.*, Kalkatti, Jarda, Patti, Gulla, Bishpat, Gadda, Hingli, Guntur Choora, etc., in all the Central Excise documents so as to enable its identification at a later stage. The condition of the tobacco also should be mentioned at the time of warehousing on T.P. 2 or T.P. 3 and rewarehousing in cases where there is some abnormal waiting of tobacco, etc.

[No. 15/1958.]

M. T. SHANBHAG, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE AND LAND CUSTOMS, BOMBAY

NOTICES

Bombay, the 14th October 1958

S.O. 2197.—Whereas it appears that the marginally noted goods which were seized by the Central Excise, the

Description	Quantity	Supervisor, Central Excise and Custom, Belekar at Belanda Island
	B. Mds. Sr.	
10 bags containing betel-nuts. Goa betelnuts.	10 0	on 10th February, 1958, were imported by sea from Goa (Portuguese Territory in India) in contravention of the Govt. of India Ministry of Commerce & Industries Import Control Order No. 17/ /55, dated 7-12-1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 167(8) of the Sea Customs Act, 1878; and why a penalty should not be imposed on him under Section 167(8) of the Sea Customs Act, 1878.
Empty glass jars.	No. 6	

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(a)10(16)Cus/58.]

S.O. 2198.—Whereas it appears that the marginally noted goods which were seized by the Super. of Central Excise and

Description Quantity
 B. Mds. Sr.
18 bags of Betelnuts. 18 0

Customs, Belekarli Port from the Forestore of Belakari on 29th April, 1958, were imported by sea from Goa (Portuguese Territory in India) in contravention of the Govt. of India, Ministry of Commerce & Industries Import Control Order No. 17/ /55, dated 7-12-1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 167(8) of the Sea Customs Act, 1878 and empty bags under Section 168 of the said Act; and why a penalty should not be imposed on him under Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10(128)Cus/58.]

S.O. 2199.—Whereas it appears that the marginally noted goods which were seized by the S.R.P. staff at a place called Ambayachi Tadi adjacent to

Description Quantity
 B. Mds. Sr.
11 bags of betelnuts. 10 35

Indo-Goa border on 8th May, 1958, were imported by land from Goa (Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industries Import Control Order No. 17/ /55, dated 7th December, 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) and empty bags under Section 168 of the Sea Customs Act, 1878; and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10(130)Cus/58.]

S.O. 2200.—Whereas it appears that the marginally noted goods which were seized by the S.R.P. Staff at Kas in Banda Beat on 6th May, 1958, were imported by land from Goa

Description Quantity
 B. Mds. Sr.
Betelnuts. 6 26

(Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industries Import Control Order No. 17/ /55, dated 7th December, 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy

Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878 and empty bags under Section 168 of the said Act and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette/ the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b) 10(143) Cus/58.]

S.O. 2201.—Whereas it appears that the marginally noted goods which were

Description	Quantity
	B. Mds. Sr.
13 Packages containing betelnuts of Goa origin.	10 38

seized by the Inspector of Central Excise and L.C., Sasoli within the jurisdiction of Ch. No. 42 on 11th April, 1958, were imported by land from Goa (Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of

Commerce and Industries Import Control Order No. 17/ /55, dated 7th December, 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) and empty bags under Section 168 of the Sea Customs Act, 1878; and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette/ the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b) 10(145) Cus/58.]

S.O. 2202.—Whereas it appears that the marginally noted goods which were

Description	Quantity
	B. Mds. Sr.
7 gunny bags and one chaddar containing Goa betelnuts.	6 39½

seized by the Police at Insuli village in Banda beat on 22nd April, 1958, were imported by land from Goa (Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act 1924 and the Government of India, Ministry of

Commerce and Industries Import Control Order No. 17/ /55, dated 7th December, 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878 and the gunny bags and chaddar under Section 168 of the said Act and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette/ the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b) 10(146) Cus/58.]

S.O. 2203.—Whereas it appears that the marginally noted goods which were seized by the Central Excise and Customs staff in the jurisdiction of C. No. 42 in Sasoli Beat on 1st June, 1958, were imported by land from Goa (Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of

Commerce and Industries Import Control Order No. 17/ /55, dated 7th December, 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette/ , the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b) 10(152) Cus/58.]

S.O. 2204.—Whereas it appears that the marginally noted goods which were seized by the Central Excise staff in the jurisdiction of Ch. No. 41 in the Sasoli Beat on 23rd May, 1958, were imported by land from Goa (Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of

Description Quantity
B. Mds. Sr.
13 bags of husked 9 20
betelnuts.

Commerce and Industries Import Control Order No. 17/ /55, dated 17th December, 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette/ , the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b) 10(153) Cus/58.]

S.O. 2205.—Whereas it appears that the marginally noted goods which were seized by the Central Excise and L.C. staff at a place called 'Kolhe Mali' in Matna Beat on 11th June, 1958, were imported by land from Goa (Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of

Description Quantity
B. Mds. Sr.
10 bags containing 8 20
betelnuts.

Commerce and Industries Import Control Order No. 17/ /55, dated 17th December, 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b) 10(154) Cus/58.]

S.O. 2206.—Whereas it appears that the marginally noted goods which were seized by the Central Excise and L.C. in the said State

Description	Quantity			in the jurisdiction of Ch. No. 44 in Sasoli Beat on 29th May, 1958, were imported by land from Goa (Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industry Import Control Order No. 17/ 65, dated 7th December, 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Deputy Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878; and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.	
15 packages containing husked betelnuts.	B. Mds.	Sr.	13	22	

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b) 10(155) Cus/58.]

H. C. BAHRI, Dy. Collector.

**OFFICE OF THE ASSISTANT COLLECTOR OF CENTRAL EXCISE
GOA FRONTIER DIVISION**

NOTICE

Belgaum, the 14th October 1958.

S.O 2207.—Whereas there is reason to believe that the undenoted goods which were seized by the Central Excise and Customs Staff near the mouth of Sharavati Creek, on 13-5-57, were imported from Goa (Portuguese territory in India) into India by Sea in contravention of Government of India F. D. (CR) Notification No. 2 Camp Cus. dated 26-1-46, deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs, Goa Frontier Division, Belgaum, why the above mentioned goods should not be confiscated under Section 167(8) and 168 of the Sea Customs Act 1878 and why a penalty should not be imposed upon him under Section 167(8) *ibid.*, of the Sea Customs Act 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette/Bombay State Government Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

S. No.	Description of goods	Value Rs. As. Ps.
1.	18 double glass Kujas and 4 single glass Kujas containing Goa country Liquor and 1 single glass Kuja containing 1/6th Goa country Liquor	800 0 0
2.	Seven bottles containing Goa country Liquor	25 0 0

S. No.	Description of goods	Value		
		Rs.	As.	Ps.
3.	One old and damaged toney ("Pongai") bearing No. HNR. 7286 with one Mast, one ore and about 25 fathoms re-ap	150	0	0
4.	Two ores	0	8	0
5.	One rudder-ore	0	8	0
6.	One rudder plank and its handle	0	4	0
7.	One old spade	0	12	0
8.	One old earthenpot, one old torn and wet sail, one old cane basket, two old torn blankets, one old and wet chaddar, one old wet cotton scraf, and one old small tin for removing water.	Nil		
TOTAL		977	0	0

[No. VIII/10-230/57.]

E. R. SRIKANTIA, Asstt. Collector.

DELHI DEVELOPMENT AUTHORITY

New Delhi, the 11th October 1958

S.O. 2208.—I, G. Mukharji, Competent Authority and Vice-Chairman, Delhi Development Authority in exercise of the powers conferred upon me under section 3 of the Slum Areas (Improvement & Clearance) Act, 1956 hereby direct that in Notification No. S.R.O. 1252, dated the 10th April, 1957, published in the Gazette of India, dated the 20th April, 1957, the following shall be substituted for the Clause (C) of the Schedule to the Notification referred above.

(c) Ward No. XI excluding the area described below:—

Darya Ganj South

North: Ansari Road.

East: City-wall excluding Masjid Ghatta Road joining Ansari Road and Lower Bala Road.

South: Delhi Gate and City-wall.

West: Faiz Bazar Road.

[No. SC/1(10)57.]

G. MUKHARJI,
Competent Authority & Vice-Chairman.

MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

New Delhi, the 14th October 1958

S.O. 2209.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following amendments in the notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) No. S.O. 1653, dated the 16th August, 1958:—

In the Schedule to the said rules—

- (1) in the heading, for the word and figures "Class II" the word and figures "Class III" shall be substituted;
- (2) in the entry in column 3 against item 1, for the letters, word and figures "G.E.S. Class III", the letters, word and figure "G.C.S. Class III" shall be substituted.

[No. F. 1-79/57-AM.]

V. S. NIGAM, Under Secy.

MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Transport)

(Transport Wing)

MERCHANT SHIPPING

New Delhi, the 15th October 1958

S.O. 2210.—In exercise of the powers conferred by rule 5 of the Indian Merchant Shipping (Seamen's Employment Office, Calcutta) Rules, 1954, the Central Government hereby appoints Captain J. Paterson as member representing the Shipowners on the Seamen's Employment Board at the port of Calcutta in place of Captain J. H. Wright who has resigned, and makes the following amendment in the notification of the Government of India in the Ministry of Transport No. 15-MS(1)/57, dated the 11th March, 1957, namely:—

In the said notification, for entry No. 10, the following entry shall be substituted, namely:—

“10. Captain J. Paterson.”

[No. 15-MT(5)/58.]

S. K. VENKATACHALAM, Dy. Secy.

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 27th September 1958

S.O. 2211.—In exercise of the powers conferred by section 47 of the Indian Railways Act, 1890 (9 of 1890) read with the Notification of the Government of India in the late Department of Commerce and Industry No. 801, dated the 24th March, 1905, the Railway Board hereby make the following further amendments in the General Rules for all Open Lines of Railways in India administered by the Government published with the Notification of the Government of India in the late Railway Department (Railway Board) No. 1078-T, dated 9th March, 1929, namely:—

In the Schedule appended to Part II of the said Rules, against S. No. 3 under column 2, after the entry 'Benzene (petrol)' the following entry shall be inserted:—

Benzene Hexachloride (Fluid).

[No. 58TG-II/21/1.]

R. E. de SA, Secy.

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 10th October 1958

S.O. 2212.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between Messrs British India Steam Navigation Company Limited, Calcutta and its workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA
20/1, Gurusaday Road, Ballygunge, Calcutta—19.

REFERENCE NO. 2 OF 1958

The employers in relation to Messrs. British India Steam Navigation Co. Ltd., Calcutta

AND

Their workmen.

PRESENT:

Shri A. Das Gupta—*Presiding Officer.*

APPEARANCES:

Shri K. B. Bose, Counsel, instructed by Shri S. C. Chakravarti and Shri R. P. Mitter—for the Employers.

Shri Niharendu Dutt-Mazumdar, Counsel, Shri Pushpamoy Das Gupta, Advocate, and Shri Jyotish Ch. Dhar, Secretary of the Union—for the workmen.

AWARD

The Government of India, Ministry of Labour and Employment, by its Order No. LR.II/28/14/58, dated 6th May, 1958 has referred to the Central Government Industrial Tribunal, Calcutta constituted under section 7A of the Industrial Disputes Act, 1947 for adjudication an industrial dispute between Messrs. British India Steam Navigation Co. Ltd., Calcutta, and their workmen. The items of dispute as specified in the schedule to the Reference are:

- (1) Whether the outdoor staff is entitled to bonus at par with the indoor staff?
- (2) If not, what should be the quantum of bonus to which the outdoor staff is entitled?

2. Previous to the Reference which is the subject matter of the present adjudication, there was an award (Reference No. 9 of 1951) by Shri K. S. Campbell-Puri, Chairman of the Central Government Industrial Tribunal, Calcutta on 9 items of dispute, which was published under Government of India, Ministry of Labour notification No. LR 3(145), dated the 8th November, 1952. The second item of the dispute covered by the award was Pujah Bonus. The award was taken to the Labour Appellate Tribunal in appeal, and the appellate decision was reported in 1955 L.A.C. p. 551. Both the primary tribunal and the Appellate Tribunal rejected the workmen's claim for Pujah Bonus.

3. Before I proceed to discuss the items of dispute covered by the present Reference a short statement of the scheme of the business of Messrs. B.I.S.N. Company Ltd. may be of some importance. Messrs. B.I.S.N. Company Ltd. have some ships of their own which are under the management of Messrs. Mackinon Mackenzie & Co. Ltd., as Managing Agents. Messrs. B.I.S.N. Company kept to themselves the business of loading and unloading of vessels. The actual physical handling of cargo in the process of loading and unloading has been entrusted to the stevedore firm Messrs. A. C. Roy & Co. since the Dock Labour Board came to function under the scheme framed under the Dockworkers (Regulation of Employment) Act. The outdoor staff of the Cargo Department does the documentation work relating to import and export of cargo and the indoor staff carries on administrative and executive functions of the department.

4. Obviously the dispute under reference relates to the outdoor staff and it is admitted that the outdoor staff comprises the following categories of workmen as specified in paragraph 4 of the workmen's written statement:

- (1) Tally Clerks,
- (2) Export Shed Clerks,
- (3) Manifest Clerks,
- (4) Inspectors,
- (5) Import Delivery Clerks,
- (6) Plan Makers,
- (7) Asstt. Import Clerks,
- (8) Asstt. Export Clerks,
- (9) Import Clerks,
- (10) Export Clerks,
- (11) Asstt. Super Cargo,
- (12) Super Cargo.

5. The B.I.S.N. Employees Union which represents the outdoor staff claims the watchmen to belong to the outdoor staff and to be covered by the present Order of Reference. The Union claims bonus for the outdoor staff including watchmen for each of the two years 1956 and 1957 equivalent to three months' basic wages. The grounds on which the Union bases its claim are:

- (1) The emoluments received by the outdoor staff are far below the living wage.

(2) The Company has earned huge profits and there is available surplus sufficient to meet the demand.

(3) The Company has paid such bonus to all workmen other than the outdoor staff.

6. The Company pleads that the Order of Reference is vague and that the decision in Reference No. 9 of 1951 confirmed by the Labour Appellate Tribunal in Appeals No. 381 and No. 382 of 1952 bars the present adjudication on principles of *res judicata*. The Company also disputes jurisdiction of the Tribunal to adjudicate on the claim of the Union as specified in the written statement. The Company pleads further that the Cargo Department is an independent establishment consisting of two distinct categories of staff viz. indoor and outdoor staff, with different terms and conditions of service, that the watchmen do not belong to the Cargo Department, that there was never any demand for bonus for the watchmen and that the Cargo Department did not make any profit in 1956 and 1957. The main contention of the Company is that according to the long standing practice, the indoor and outdoor staff have been getting two distinct kinds of bonus viz. Pujah Bonus and Monthly Bonus.

7. A correct decision on the issues listed in the Order of Reference involves the following points:

- (1) Are the watchmen covered by the Order of Reference and was there any demand for bonus for the watchmen?
- (2) Are the terms and conditions of service of the workmen of the two sections—indoor and outdoor distinct and separate? If so, can one of the terms and conditions of service of the indoor staff which relates to bonus be transplanted into the existing terms and conditions of service of the outdoor staff?
- (3) Does the award in Reference No. 9 of 1951 as confirmed by the Labour Appellate Tribunal in Appeals No. 381 and No. 382 of 1952 bars further agitation in the matter of bonus on the principles of *Res Judicata*?
- (4) Is the Issue (2) of the Order of Reference vague and has this Tribunal any jurisdiction to adjudicate upon any specific claim of the Union for bonus for 1956 and 1957?

8. For a correct appreciation of the contentions of the parties, a short history of the developments and improvements in the terms and conditions of service of the workmen of the two sections—indoor and outdoor staff—leading up to the present terms and conditions of their service may be a little relevant. It cannot be denied that for workmen in the two sections or even for workmen in the same section there are different grades for different categories of workmen. The grades are:

	Outdoor	Indoor
For Tally Clerks	Rs. 60-5-150	Rs. 70-4-134
Other grades	Rs. 75-6-200 80-6-225 85-7-236 95-7-259 115-9-305	110-7-180 160-10-260

The grades were settled either by adjudication or by collective bargaining. Whatever might have been the state of things in the past, it must be presumed that the present grades and scales of pay represent the proper value of the different jobs on which the workmen are employed. A comparison of the grades and scales by themselves will be misleading. Any enquiry about the propriety or otherwise of the grades and scales of pay is outside the scope of the present Reference. Much were made at the hearing about the grade of the Tally Clerks. The Tally Clerks occupy a stratum inferior to the generality of the clerks. The observation of the Central Pay Commission at page 180 of its Report may be referred to in this connection.

"The scales that we have proposed for the Class III services are calculated to meet the grievance of the clerical services as far as possible. The first scale we have suggested in paragraph 66 of Part II *supra* viz. Rs. 55-3-85—E B —4—125—5—130 will be the scale for generality of

the clerks. But the clerks are not required to be even matriculates, e.g. Tally Clerks, appropriate scales for Class IV may be adopted."

9. This recommendation has hitherto been adopted by almost all Tribunals including the Labour Appellate Tribunal. I may be permitted to refer also to para. 18 of the decision of the Special Bench at Bombay in Appeal No. 185 of 1955 (Bombay Dock Appeal). In fact the grades of the Tally Clerks in the past happened to be the recruiting grade for the workmen of the indoor and outdoor sections. No qualification was prescribed for Tally Clerks although Tally Clerks were required and are required even on this day to appear at some tests. I had occasion to look into some of the records of such tests. One of the Tally Clerks would spell "Clerks" as "Clerks". I do not propose to probe into the point further. Although I feel that in the matter of comparison of service conditions of two sections of workmen, the question of comparison of the grades and scales of pay settled by adjudications and collective bargaining for different categories of jobs cannot arise, for it must be presumed that the grades and scales were settled on proper evaluation of the different jobs on which the workmen are employed. Besides, such a comparison is not permissible under the present issues. However, the Labour Appellate Tribunal which had occasion to enter into the wage structure in the two sections, observed:

"It is admitted that the outdoor staff of the Company earn more than what are earned by similar employees of other concerns and the Tribunal had also observed that what they earn do not compare unfavourably with the employees of mercantile concerns in general."

The Bengal Chamber of Commerce scheme has been adopted for the indoor staff and the Labour Appellate Tribunal referring the Scheme of wage structure of the outdoor staff observed:

"The scheme was far better than that of the Bengal Chamber of Commerce. *** In spite of adoption of the scale of the Bengal Chamber of Commerce for the indoor section, the situation created gave cause of uneasiness among the indoor section as some of them were recruited from the outdoor section. There was a desire for the indoor clerks who came from the outdoor section to go back to their original place and it appears that the Company agreed to the reversion and two of them were actually sent back."

This indicates that the wage structure and terms and conditions of service of the outdoor section was not, taken as a whole, in any way inferior to that for the indoor section.

Dearness Allowance.—Although in the past members of the outdoor staff were getting fixed dearness allowance, the Bengal Chamber of Commerce scheme which is available to the indoor section has been extended to the outdoor section as well.

Hours of employment.—The outdoor staff are not employed for all the days in the month. They are employed on an average of 18 days in a month and their normal working hours are 8 hours in a day. The indoor staff have got to work on all the days in a month with the exception of Sundays and holidays but their working hours are a little less. They have got to work for such number of hours in a day as the office staff in the locality are required to work. In some respects longer hours of work in a day with more off days are better than shorter hours of work with lesser number of off days, provided the working hours in a day do not involve any undue strain on the workmen. The outdoor staff like other workmen in the locality doing comparable jobs are employed normally for eight hours in a day. Obviously no question of extra strain arises. For overtime work they get overtime allowance at special rates in the same way as the indoor staff get. The outdoor staff get more time to look after their own affairs. Working hours in each section depend upon the volume and nature of work as also on traditions and prevalent practice. It is not possible to say definitely which of the two schemes is better. Each of the two schemes have their own bright sides.

Overtime payment.—The indoor and the outdoor staff get the overtime payment at the same rate.

Sunday and holiday allowance.—The indoor staff get allowance equivalent to two days basic salary while the outdoor staff get for each half day worked Rs. 1/4/- and for each half night worked Rs. 1/12/-. The indoor staff are undoubtedly better off in this respect. The outdoor section gets more off days than the indoor section and this may be the main consideration for the higher rates of Sunday and holiday allowance for the indoor section.

Tiffin Allowance.—The indoor staff are given tea and snacks, the value of which works out to 7/-10/- annas a day while members of the outdoor staff get Rs. 2 to Rs. 2/12/- as diet allowance for postine. In this respect the members of the outdoor staff are much better off. Shri Dutt Mazumdar for the workmen submits that the outdoor section are given a higher allowance because they work more hours in a day. If that be so the Union cannot make any grievance of the working hours.

Leave.—About privilege leave there is practically no difference except that in the case of the office staff accumulation of privilege leave is allowed upto three months whereas for the outdoor staff upto two months. But, in the matter of sick and casual leave members of the indoor staff get 20 days leave on full pay and 30 days on half pay and 10 days Casual Leave on full pay while members of the indoor staff get only 30 days sick and casual leave on full pay. Obviously the outdoor staff is in an advantageous position in this respect.

Pension.—Pension Scheme is the same for workmen of both the sections except that only the Tally Clerks do not earn any pension for service below 20 years. Of course, those who have not put in qualifying service for pension get gratuity.

10. The members of the outdoor staff have been getting monthly bonus almost since the inception of the company. Shri Bose on behalf of the Company contends that bonus was not previously allowed to the indoor staff. As Messrs. Mackinon Mackenzie Company, Managing Agents of the Company, started payment of bonus to their own staff in 1947, the Company decided to adopt the scheme of bonus for the indoor staff irrespective of their trading position. The reasons were, Shri Bose urges, that as some sections of the indoor workers were housed in the same premises as Messrs. Mackinon Mackenzie Company and workmen employed in these sections were working side by side with the workmen of Messrs. Mackinon Mackenzie Company, the Company adopted Messrs. Mackinon Mackenzie Company's scheme of bonus for their indoor staff to avoid any unrest, without any consideration of the trading position of their own. Shri J. C. Dhar, Secretary of the Union, who has examined himself as a witness for the workmen in the case says that the staff of the Mackinon Mackenzie and the indoor staff of Messrs. B.I.S.N. Company are inseparable and that the indoor staff of the B.I.S.N. Company cannot be distinguished from the staff of the Mackinon Mackenzie. This supports the contention of Shri Bose for the Company. The evidence is that whatever bonus was declared by Messrs. Mackinon Mackenzie & Company for their staff was notified by the B.I.S.N. Company for their indoor staff. In 1949, the staff of the Mackinon Mackenzie Company agitated for inclusion of dearness allowance for the purpose of computation of bonus but this was rejected. The B.I.S.N. Company likewise left out dearness allowance in the computation of Bonus for 1949. In 1952, Mackinon Mackenzie & Company declared bonus for their staff equivalent to 1½ months' basic wages and this was adopted by B.I.S.N. Company for their indoor staff in the following terms:

"It was decided that the payment of 1½ months' basic pay as Pujah Bonus to Mackinon Mackenzie & Co. Ltd's employees would be extended to those B.I. employees who received the Bonus last year." (Exhibit E/1 series).

The quantum of bonus paid to the indoor staff of the B.I.S.N. Company was all along at par with that paid to the employees of Mackinon Mackenzie & Company.

11. As I have already stated, Pujah Bonus was one of the subject matters of adjudication in Reference No. 9 of 1951. The Union demanded Pujah Bonus for the outdoor staff at such rates at which the indoor staff was paid. The grounds on which the claim was sought to be justified were stated in paras 8 and 10 of the union's written statement (Ex. E/8):

"8. The same unfair and unjust discrimination has all along been and is still being persisted on by the Employers for paying to all the indoor staff one month's salary as Pujah Bonus year after year as a condition of service irrespective of the position of their earnings while excluding the outdoor staff of the Cargo Department from the said benefit."

"10. It is specially to be noted that even after the aforesaid reference to this Tribunal, the employers paid to their indoor staff Pujah Bonus at the rate of one and a half month's pay for the year 1951."

12. In adjudicating on the dispute about Pujah bonus, both the primary and the appellate tribunals accepted the union's allegation that it was the condition

of service of the indoor staff. The Union in claiming extension of the benefit to the outdoor staff appears to have urged that the Pujah bonus was customary and traditional. The Labour Appellate Tribunal in rejecting the claim of the outdoor staff for Pujah Bonus observed:

"The Tribunals have been granting profit bonus on the basis of available surplus depending on profits. So far as the liability to pay bonus irrespective of any profit or loss is concerned, the tribunals have not allowed that except where it existed as a condition of service and under the matter of a contract."

13. The question whether the principle of *Res Judicata* is applicable in the field of industrial dispute came up before their Lordships of the Hon'ble Supreme Court in the case of Messrs. Burn & Co., Howrah (1956 I.A.C. p. 799). The question has been set at rest by the decision of the Hon'ble Supreme Court according to which alteration or modification of the previous award is permissible only on the proof of a change in the basic circumstances. According to their Lordships any other view would be contrary to the well recognised principle that a decision once rendered by a competent authority on the matter and the issue between the parties after a full enquiry should not be permitted to be re-agitated. With a view to avoid the legal bar the Union has pleaded in its written statement that the Company has earned huge profits and that there is available surplus sufficient to meet the demand of the workmen and calls the bonus which is paid to the indoor staff Annual Bonus instead of Pujah Bonus.

14. The indoor staff of the B.I.S.N. Company gets only one bonus annually on the eve of the Pujahs. It is called Pujah bonus because it is paid immediately before the Pujahs and is intended to meet the customary obligations of the Hindus. It may also be called annual bonus as it is paid annually. By whatever name it may be called, the nature of the bonus stands unaffected. It has been urged on behalf of the workmen that it was profit bonus and that it could not be otherwise after the decision of the Hon'ble Supreme Court in the case of Muir Mills Ltd., reported in 1955 I.A.C. at page 1. After the decision of the Hon'ble Supreme Court in Muir Mills case, no claim for bonus can be entertained unless and until two conditions are fulfilled viz. the wages fall short of the living standard and the industry makes huge profit part of which are due to the contribution which the workmen make in increasing production. Now so far as the indoor staff are concerned both the parties who gave the bonus as also who received the bonus had a mutual understanding that it was a condition of service of the recipients. Even the outdoor staff as is clear from their written statement in Reference No. 9 of 1951 did not understand the Pujah Bonus or Annual Bonus paid to the indoor staff differently. Now that the employers give the bonus to the indoor staff as a condition of their service and the indoor staff receive it as such, there is no dispute between the employers and the employees so far as the annual or Pujah Bonus is concerned. An industrial tribunal could turn down the claim of bonus of the indoor staff as a condition of their service only if such a claim was resisted by the employers, but now that there is no dispute about the bonus which is paid to the indoor staff this Tribunal has no jurisdiction specially when the indoor staff are not parties to the present adjudication proceedings to enquire whether a sufficient case has been made out in the light of the decision of the Hon'ble Supreme Court to justify payment of bonus and to direct the employers to withhold such payment. Now that both the employers and the indoor staff look upon the bonus as a condition of service of the indoor staff, this Tribunal has no jurisdiction to call it otherwise. Prior to 1951 the bonus was paid at the rate of one month's basic pay and since 1951 this bonus was paid at an enhanced rate varying from year to year, in the same way as the bonus paid to the employees of the Mackinon Mackenzie & Company varied. The employees of the Mackinon Mackenzie & Company and the indoor staff under the B.I.S.N. Company were paid bonus at identical rates. Shri Dutt Mazumdar, on behalf of the workmen, urges that the bonus which was paid to the indoor staff could never be a condition of their service inasmuch as it fluctuated from year to year. His contention was that a bonus which fluctuated from year to year could not but be related to profits. In reply to this contention Shri Bose on behalf of the Company submits that there was an implied agreement with the indoor staff of the B.I.S.N. Company that whatever bonus the employees of the Mackinon Mackenzie & Company would get would be available to the members of the indoor staff. The implied agreement did not relate to the quantum of the bonus. In fact that this bonus was increased to $1\frac{1}{2}$ months basic pay in 1951 from one month's basic pay paid to the indoor staff prior to 1951 was known to the workmen when they filed the written statement before Shri K. S. Campbell-Puri in Reference No. 9 of 1951. Inspite of this fact the present union contended

that the bonus was paid to the indoor staff as a condition of their service irrespective of the position of the earnings of the Company. I do not feel myself called upon to probe into the nature of the bonus that was paid to the indoor staff, specially when it was admitted by all concerned to be a condition of service of the indoor section. By whatever name it might be called, it was the only bonus that was paid to the indoor staff as a condition of their service and received by the members as such. In Reference No. 9 of 1951 the Union demanded for the members of the outdoor staff similar bonus unrelated to profit.

15. As the issues under reference stand, I am called upon to lay down a general rule for payment of bonus to the employees of the outdoor section of the Company without reference to any particular year or years—whether it should be at par with that available to the indoor staff and if not what should be the quantum of bonus payable to the outdoor staff. Bonus based on profits and payable out of the available surplus under the Full Bench formula of the Labour Appellate Tribunal in the Bombay Millowners' case must necessarily vary from year to year. Such bonus cannot be determined without reference to the trading results of a business of the particular year to which the claim relates. No general scheme of Profit Bonus is possible which is to hold good for all years. A general scheme is possible only when it is unrelated to profits and by the present Order of Reference I am called upon to devise such a general scheme. Although even to this day bonus is being paid to the indoor staff as a condition of their service, the decision of the Tribunal in Reference No. 9 of 1951 as affirmed by the Labour Appellate Tribunal bars the claim for bonus of the outdoor staff in the present case as a condition of service. Apart from this legal bar, the annual or Pujah Bonus cannot be a condition of service of the outdoor staff who never got it.

16. The Union appears to have submitted before the Company the demand of the outdoor staff for bonus for 1956 and 1957 on the ground that the Company has earned huge profits (Annexures A and B to the Union's written statement). But as I have already mentioned the issues under reference are in general terms unrelated to any particular year. Unlike in civil suits, parties to industrial adjudications under the Industrial Disputes Act have got to draw up their pleadings and formulate their respective cases to confirm to the points of dispute specified in the Order of Reference under section 10(4) of the Industrial Disputes Act. In industrial adjudications where the Government formulates the points for adjudication in the Order of Reference under section 10(4) of the Act the parties are to confine themselves to the points specified in the Order of Reference and matters incidental thereto and their pleadings are to follow the points so specified, but in civil suits, the points for decision or issues, as they are called, are formulated from the pleadings of the parties which precede the issues. Shri Dutt Mazumdar urges that although section 10(4) of the Industrial Disputes Act, 1947 does not permit the parties to enlarge upon the points specified in the Order of Reference, there is nothing in the Act to indicate that the parties are in any way debarred to narrow down the issues specified in the Order of Reference which are much wider. His contention is that where a Tribunal has been called upon to adjudicate upon a dispute on bonus in general the workmen cannot be prevented from limiting their claim to some particular year or years e.g. 1956 and 1957. This contention is undoubtedly very sound when the principles underlying the general claim as also the specific claim are identical. This may be clarified by a concrete example. If the workmen go on strike for three months and the point referred for adjudication is whether the workmen are entitled to pay for the entire strike period, the workmen may confine their claim to one month's pay, for the underlying principle is the same whether the claim is for three months or for one month. So far as claim for bonus is concerned a general claim unrelated to any particular year is dependent on considerations other than profit. If it is confined to a particular year it is dependent on an additional consideration of profit. In this view of the case, limiting the claim for bonus to any particular year would necessarily enlarge the scope of the enquiry to include an enquiry into the trading position of the Company of that year which is not contemplated under the general issue. In this view of the case I am inclined to hold that on the issues as formulated by the Government in the Order of Reference I cannot adjudicate upon the issues in relation to any particular year. It may be mentioned here that in interpreting the issues as formulated in the Order of Reference, we cannot look into either the pleadings of the parties on the demands submitted by the workmen before the Company for experience shows that the Government may choose to refer an item of industrial dispute out of many placed by the workmen and in a particular way different from the way in which the workmen raised the dispute. The report of

the Conciliation Officer (Ex. W/6) appears to have been the basis of the present reference. The Conciliation Officer observes in his report:

"The company employs two categories of staff in question *viz* indoor staff and outdoor staff. To my mind there should not be any discrimination between the two categories. If there was any discrimination in the matter of bonus, steps should be taken that it was removed."

This main observation of the Conciliation Officer is in general terms, without reference to any particular year. The Conciliation Officer recommended removal of the apparent discrimination which he found in the matter of payment of bonus to the two sections—indoor and outdoor. Thus on the Order of Reference as it stands, I cannot entertain the demand of the workmen for bonus for any particular year 1956 or 1957.

17. No question of discrimination arises in the present case. The terms and conditions of service of the indoor and the outdoor staff are regulated by different schemes which although distinct and separate from each other have some bright features in each. The outdoor staff has been getting monthly bonus since inception of the Company when the indoor staff was not paid any bonus. The wages of the outdoor staff which were settled by adjudication or agreement must be presumed to represent the proper value of the jobs they perform. In fact there is no suggestion that the grades and scales of pay of the outdoor staff in the present Company are in any way inferior to the grades and scales prevailing in the locality for comparable jobs. It is contended that the monthly bonus is dependent on efficiency and regularity. Shri Campbell-Puri has removed by his award in Reference No. 9 of 1951 all such conditions as created hardships in the past. The only cut in the monthly bonus that is permissible after the award of Shri Campbell-Puri relates to deliberate negligence causing loss or damage to the Company. Even Profit Bonus is subject to cut for similar conduct of the employees and I do not think that in the matter of Annual Bonus of the indoor staff, such deliberate negligence causing loss or damage to the Company is immune. The monthly bonus of the outdoor staff has not the remotest risk of being otherwise reduced, but in the case of monthly bonus which appears to fluctuate from year to year, while there is possibility of the annual bonus going up, there is equal possibility of its being reduced, and it may even dwindle to nil.

18. My decisions shall accordingly be:

- (1) Watchmen belong to the outdoor staff and are covered by the Order of Reference which is not confined to the outdoor staff of the Cargo Department only. The demand for bonus for the outdoor staff included demand for the watchmen as well.
- (2) The terms and conditions of service of workmen of the two sections—indoor and outdoor—are distinct and separate. In some points the outdoor staff is better off than the indoor while in some other points the indoor staff are better off than the outdoor staff. They are recipients of two kinds of bonus. The monthly bonus is available to the outdoor staff from the very inception of the business while Annual Bonus is available to the indoor staff for about the last 10 or 11 years and even for the first few years the annual bonus was much less than the total amount of monthly bonus available to the outdoor staff in a year. The indoor staff is said to have been getting the Annual Bonus as a condition of their service. As this Annual Bonus was never in the past available to the outdoor staff, it cannot be condition of their service. No question of discrimination arises.
- (3) Besides any claim of the outdoor staff to the Annual Bonus as a condition of service is barred by the award in Reference No. 9 of 1951 as confirmed by the Labour Appellate Tribunal on principles of *res judicata*.
- (4) Issue No. 2 is a corollary to Issue No. 1 and must accordingly be interpreted in the light of the main issue. It does not relate to any particular year. As both the issues are in general terms, I cannot assume jurisdiction to read between the lines and adjudicate upon the dispute with reference to any particular year inasmuch as that will involve consideration of different principles not contemplated by the general issue.

19. I have carefully considered the facts and circumstances of the case and the points placed before me and I regret that on the issues before me as listed in the Order of Reference I cannot give any relief to the workmen.

20. In conclusion I must acknowledge the assistance I received from the representatives of the parties and their lawyers.

CALCUTTA;

The 30th September, 1958.

A. DAS GUPTA,
Presiding Officer,

Central Government Industrial Tribunal, Calcutta

[No. LR.IV-28(14)/58.]

R. C. SAKSENA, Under Secy.

New Delhi, the 16th October 1958

S.O. 2213.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following Award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33 A of the said Act from certain workmen of Selected Jharia Colliery

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

APPLICATION No. 1 OF 1958

(arising out of Reference No. 14 of 1958)

In the matter of an application under Section 33A of the Industrial Disputes Act 1947.

PRESENT:

Shri Salim M. Merchant, B.A.LL. B.—Chairman.

Parties:

Shri Bagchwar Jaiswara and 17 others of the Selected Jharia Colliery, P.O. JHARIA.—Complainants.

Vs.

Manager, Selected Jharia amalgamated with Selected Khas Jharia colliery.—Opposite Party.

Dhanbad, Dated 30th September 1958.

Appearances:

No appearance on behalf of the complainants.

Shri D. Narasingh, Advocate—for the opposite party.

State: Bihar.

Industry: Coal.

AWARD

This is a complaint purporting to be under Section 33A of the Industrial Disputes Act, 1947 against the alleged discharge of the complainants from service on different dates in or about April 1958 during the pendency before this Tribunal of Reference No. 14 of 1958, which was an industrial dispute between the management of this colliery and its workmen. The complainants allege that they were workmen concerned in that dispute and that this complaint is maintainable as their discharge was effected without the permission of the Tribunal having been first obtained as required by Section 33 of the Act.

2. After the complaint was filed, notice was issued on the opposite party to file its written statement by 2nd June, 1958. The company in its written statement has denied that it had violated any of the provisions of Section 33 of the

Act. On merits it states that none of the complainants was discharged from service. Thereafter the complaint was fixed for hearing on 16th July 1958 when no one represented the complainants nor was any one of the complainants present. The matter was therefore adjourned to 12th August, 1958 when Shri Lalit Burman, General Secretary, Loyabad Labour Union, appeared for the complainants and applied for an adjournment and the hearing was adjourned to 24th September, 1958. At the adjourned hearing on 24th September, 1958 Shri Lalit Burman, General Secretary, Loyabad Labour Union, along with Shri S. N. Tewari, Secretary, Selected Jharia Colliery Workers Union, a unit of the Bihar Koyal Mazdoor Sabha, filed an application stating that efforts were being made by some friends of both parties for settling the dispute and that the result of the efforts will be known within a week. They therefore applied for an adjournment to which Shri D. Narsing, Advocate, for the company had no objection. The hearing was therefore adjourned to to-day i.e. 30th September, 1958. At to-day's hearing no one appeared on behalf of the complainants nor was any one of the complainants present though called out. It will thus be seen that in spite of all opportunities having been given to the complainants, they have not cared to prosecute this complaint. The complaint is, therefore, dismissed for non-prosecution.

3. No order as costs.

SALD, M. MERCHANT, Chairman, Central Government Industrial Tribunal, Dhanbad.

Seal of the Central Governments Industrial Tribunal Dhanbad.

DHANBAD;

30th September 1958.

[No. LRII-4(89)/58.]

K. D. HAJELA, Under Secy.

